

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

May 17, 2023

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

NICKOLIS WILLIAM MILLER,

Defendant.

No. 1:21-CR-02021-SAB-1

ORDER GRANTING DEFENDANT'S
MOTION TO EXPEDITE AND
GRANTING IN PART AND
DENYING IN PART DEFENDANT'S
MOTION TO MODIFY CONDITIONS
OF RELEASE

ECF Nos. 42, 43

On Wednesday, May 17, 2023, the Court conducted a hearing on Defendant's Motion to Modify Conditions of Release (ECF No. 42) and related Motion to Expedite (ECF No. 43). Defendant was represented by Assistant Federal Defender Nick Mirr. Assistant United States Attorney Chris Bridger represented the United States.

Defendant requests that the Court strike Special Condition Nos. 9 and 10 to remove him from a program of GPS monitoring and home curfew. ECF No. 42. The United States Attorney's Office and the United States Probation/Pretrial

Services Office have no objection to Defendant's request. *Id.* However, the Court finds it appropriate to continue Defendant's participation in GPS location monitoring at this time, with the understanding that a motion to strike this condition would be properly heard before this Court if Defendant's sentencing hearing (currently set for June 28, 2023) is continued to a later date.

Accordingly, **IT IS ORDERED:**

1. Defendant's Motion to Expedite (**ECF No. 43**) is **GRANTED**.

2. Defendant's Motion to Modify Conditions of Release (**ECF No. 42**) is **GRANTED IN PART AND DENIED IN PART**.

3. **Special Condition No. 10 (ECF Nos. 21, 31) is MODIFIED** in its entirety to read **as follows:**

10. **Stand-alone Monitoring**: Defendant shall participate in the location monitoring program in order to verify compliance with any court-imposed conditions of supervision.

4. All other terms and conditions of pretrial release not inconsistent herewith shall remain in full force and effect. Those conditions are as follows:

STANDARD CONDITIONS OF RELEASE

1. Defendant shall not commit any offense in violation of federal, state, or local (including tribal) law. Defendant shall advise the supervising United States Probation/Pretrial Services Officer and defense counsel within one business day of any charge, arrest, or contact with law enforcement. Defendant shall not

1 work for the United States government or any federal or state law enforcement
2 agency unless Defendant first notifies the supervising United States
3 Probation/Pretrial Services Officer in the captioned matter.

4 2. Defendant shall immediately advise the Court and the United States
5 Attorney in writing before any change in address.

6 3. Defendant shall appear at all proceedings and surrender as directed for
7 service of any sentence imposed.

8 4. Defendant shall sign and complete form A.O. 199C before being
9 released.

10 5. Defendant shall not possess a firearm, destructive device, or any
11 dangerous weapons.

12 6. Defendant shall report to the United States Probation/Pretrial Services
13 Office before or immediately after release and shall report as often as they direct,
14 at such times and in such manner as they direct.

15 7. Defendant shall contact defense counsel at least once a week.

16 8. Defendant shall refrain from use or unlawful possession of a narcotic
17 drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed
18 by a licensed medical practitioner in conformance with Federal law. Defendant
19 may not use or possess marijuana, regardless of whether Defendant has been
20 authorized medical marijuana under state law.

1 9. Defendant shall surrender any passport to United States
2 Probation/Pretrial Services and shall not apply for a new passport.

3 10. Defendant is further advised it is unlawful for any person who is
4 under indictment for a crime punishable by imprisonment for a term exceeding one
5 year, to receive, ship or transport in interstate or foreign commerce any firearm or
6 ammunition or receive any firearm or ammunition which has been shipped or
7 transported in interstate or foreign commerce.

8 **SPECIAL CONDITIONS OF RELEASE**

9 1. Defendant shall reside with Third-Party Custodian Sandra McCloud
10 (“T.C.”), his mother, at the residence set forth on the A.O. Form 199B. T.C. shall
11 sign a copy of A.O. Form 199B, to be kept in United States Probation/Pretrial
12 Services file; use every effort to assure the appearance of the Defendant at all
13 scheduled court proceedings; and notify the Court through United States
14 Probation/Pretrial Services immediately in the event Defendant violates any
15 conditions of release or disappears.

16 2. Defendant shall remain in the Eastern District of Washington unless
17 given permission by the United States Probation/Pretrial Services Office.

18 3. Defendant shall notify the United States Probation/Pretrial Services
19 Office within 24 hours of any change in address, telephone number, or
20 employment.

1 4. Defendant shall avoid all contact, direct or indirect, with any persons
2 who Defendant would reasonably know are or may become a victim or potential
3 witness in the subject investigation or prosecution.

4 5. Defendant shall submit to a mental health evaluation and undergo any
5 recommended treatment as directed by United States Probation/Pretrial Services.
6 Prior to commencing any evaluation or treatment program, Defendant shall provide
7 waivers of confidentiality permitting the United States Probation/Pretrial Services
8 office and the treatment provider to exchange without qualification, in any form
9 and at any time, any and all information or records related to Defendant's
10 conditions of release and supervision, and evaluation, treatment, and performance
11 in the program. It shall be the responsibility of defense counsel to provide such
12 waivers.

13 6. Defendant shall submit to a substance abuse evaluation and undergo
14 any recommended substance abuse treatment as directed by the United States
15 Probation/Pretrial Services Office. Prior to commencing any evaluation or
16 treatment program, Defendant shall provide waivers of confidentiality permitting
17 the United States Probation/Pretrial Services Office and the treatment provider to
18 exchange without qualification, in any form and at any time, any and all
19 information or records related to Defendant's conditions of release and
20 supervision, and evaluation, treatment, and performance in the program. It shall be

1 the responsibility of defense counsel to provide such waivers.

2 7. Defendant shall abstain totally from the use of alcohol.

3 8. Defendant shall submit to random urinalysis and Breathalyzer testing
4 as directed by the United States Probation/Pretrial Services Office. Defendant
5 shall refrain from obstructing or attempting to obstruct or tamper, in any fashion,
6 with the efficiency and accuracy of any prohibited substance testing which is
7 required as a condition of release.

8 9. **GPS Monitoring:** Defendant shall participate in a program of GPS
9 location monitoring. Defendant shall wear, at all times, an electronic device under
10 the supervision of the United States Probation/Pretrial Services Office. In the
11 event Defendant does not respond to location monitoring or cannot be found, the
12 United States Probation/Pretrial Services Office shall forthwith notify the United
13 States Marshals Service, who shall immediately find, arrest, and detain Defendant.
14 Defendant shall pay all or part of the cost of the program based upon ability to pay
15 as determined by the United States Probation/Pretrial Services Office.

16 10. **Stand-alone Monitoring:** Defendant shall participate in the location
17 monitoring program in order to verify compliance with any court-imposed
18 conditions of supervision.

19 11. Defendant shall be released on Monday, October 17, 2022, at 8:00
20 AM to the custody of T.C. In the meantime, T.C. shall make arrangements for

1 Defendant's treatment following his release from custody, based on the
2 recommendations of United States Probation/Pretrial Services. Defendant shall
3 immediately thereafter report to United States Probation/Pretrial Services for the
4 installation of GPS monitoring.

5 **IT IS SO ORDERED.**

6 DATED May 17, 2023.



Alexander C. Ekstrom

ALEXANDER C. EKSTROM
UNITED STATES MAGISTRATE JUDGE

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